

**PART 824—SPECIAL PERMANENT
PROGRAM PERFORMANCE
STANDARDS—MOUNTAINTOP RE-
MOVAL**

Sec.

824.1 Scope.

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824.11 Mountaintop removal: Performance standards.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 506, 508, 510, 515, 517, 701 Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 474, 478, 480, 486, 498, 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1258, 1260, 1265, 1267, 1291).

§ 824.1 Scope.

This part sets forth special environmental protection performance, reclamation, and design standards for surface coal mining activities constituting mountaintop removal mining.

[44 FR 15452, Mar. 13, 1979]

§ 824.2 Objectives.

The objectives of this part are to—

- (a) Enhance coal recovery;
- (b) Reclaim the land to equal or higher postmining use; and
- (c) Protect and enhance environmental and other values protected under the Act and this chapter.

[44 FR 15452, Mar. 13, 1979]

§ 824.11 Mountaintop removal: Performance standards.

(a) Under an approved regulatory program, surface coal mining activities may be conducted under a variance from the requirement of this subchapter for restoring affected areas to their approximate original contour, if—

(1) The regulatory authority grants the variance under a permit, in accordance with 30 CFR 785.14;

(2) The activities involve the mining of an entire coal seam running through the upper fraction of a mountain, ridge, or hill, by removing all of the overburden and creating a level plateau or gently rolling contour with no highwalls remaining;

(3) An industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed and approved for the affected land;

(4) The alternative land use requirements of § 816.133(a) through (c) of this chapter are met;

(5) All applicable requirements of this subchapter and the regulatory program, other than the requirement to restore affected areas to their approximate original contour, are met;

(6) An outcrop barrier of sufficient width, consisting of the toe of the lowest coal seam, and its associated overburden, are retained to prevent slides and erosion, except that the regulatory authority may permit an exemption to the retention of the coal barrier requirement if the following conditions are satisfied:

(i) The proposed mine site was mined prior to May 3, 1978, and the toe of the lowest seam has been removed; or

(ii) A coal barrier adjacent to a head-of-hollow fill may be removed after the elevation of a head-of-hollow fill attains the elevation of the coal barrier if the head-of-hollow fill provides the stability otherwise ensured by the retention of a coal barrier;

(7) The final graded slopes on the mined area are less than 1v:5h, so as to create a level plateau or gently rolling configuration, and the out slopes of the plateau do not exceed 1v:2h except where engineering data substantiates, and the regulatory authority finds, in writing, and includes in the permit under 30 CFR 785.14, that a minimum static safety factor of 1.5 will be attained;

(8) The resulting level or gently rolling contour is graded to drain inward from the out slope, except at specified points where it drains over the out slope in stable and protected channels. The drainage shall not be through or over a valley or head-of-hollow fill.

(9) Natural watercourses below the lowest coal seam mined are not damaged;

(10) All waste and acid-forming or toxic-forming materials, including the strata immediately below the coal seam, are covered with non-toxic spoil to prevent pollution and achieve the approved postmining land use; and

(11) Spoil is placed on the mountaintop bench as necessary to achieve the postmining land use approved under